

AMENDED IN SENATE MARCH 29, 2016

**SENATE BILL**

**No. 1241**

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**Introduced by Senator Wieckowski**

February 18, 2016

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An act to ~~amend Section 1286.2 of the Code of Civil Procedure, relating to arbitration.~~ *add Section 1799.208 to the Civil Code, relating to consumer contracts.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1241, as amended, Wieckowski. ~~Arbitration awards. Consumer contracts.~~

*Existing law, the Consumer Contract Awareness Act, defines a consumer contract as a writing prepared by a seller that provides for the sale or lease of goods or services for personal, family, or household purposes, among other provisions. The act require a seller to deliver a copy of a consumer contract to the consumer at the time the contract is signed, and it prohibits the waiver of any provisions of the act.*

*This bill would, in addition, provide that a provision in a consumer contract that purports to designate the venue in which a controversy arising from the consumer contract is litigated, or the choice of law to be applied, is voidable by the consumer, with respect to a controversy arising in California, if the provision would deprive the consumer of the protection of California law or require the consumer to litigate the controversy out of state.*

~~Existing law establishes standards for arbitration, and requires the court to vacate an arbitration award if it makes certain findings.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1799.208 is added to the Civil Code, to  
2     read:

3     1799.208. (a) Notwithstanding any other law, a provision in  
4     a consumer contract, as defined by subdivision (b) of Section  
5     1799.201, that purports to designate the venue in which a  
6     controversy arising from the consumer contract may be litigated,  
7     or the choice of law to be applied, is voidable by the consumer if  
8     the provision would do either of the following:

9     (1) Deprive the consumer of the protection of California law  
10    with respect to a controversy arising in California.

11    (2) Require the consumer to litigate outside of California a  
12    claim arising in California.

13    (b) For purposes of this section, litigation includes arbitration.

14    ~~SECTION 1. Section 1286.2 of the Code of Civil Procedure~~  
15    ~~is amended to read:~~

16    ~~1286.2. (a) Subject to Section 1286.4, the court shall vacate~~  
17    ~~the award if the court determines any of the following:~~

18    ~~(1) The award was procured by corruption, fraud or other undue~~  
19    ~~means.~~

20    ~~(2) There was corruption in an arbitrator.~~

21    ~~(3) The rights of the party were substantially prejudiced by~~  
22    ~~misconduct of a neutral arbitrator.~~

23    ~~(4) The arbitrators exceeded their powers and the award cannot~~  
24    ~~be corrected without affecting the merits of the decision upon the~~  
25    ~~controversy submitted.~~

26    ~~(5) The rights of the party were substantially prejudiced by the~~  
27    ~~refusal of the arbitrators to postpone the hearing upon sufficient~~  
28    ~~cause being shown therefor or by the refusal of the arbitrators to~~  
29    ~~hear evidence material to the controversy or by other conduct of~~  
30    ~~the arbitrators contrary to the provisions of this title.~~

31    ~~(6) An arbitrator making the award either: (A) failed to disclose~~  
32    ~~within the time required for disclosure a ground for disqualification~~  
33    ~~of which the arbitrator was then aware; or (B) was subject to~~  
34    ~~disqualification upon grounds specified in Section 1281.91 but~~  
35    ~~failed upon receipt of timely demand to disqualify himself or~~

1 ~~herself as required by that provision. However, this subdivision~~  
2 ~~does not apply to arbitration proceedings conducted under a~~  
3 ~~collective bargaining agreement between employers and employees~~  
4 ~~or between their respective representatives.~~

5 (b) ~~Petitions to vacate an arbitration award pursuant to Section~~  
6 ~~1285 are subject to the provisions of Section 128.7.~~

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